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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/002,187 12/31/97 HABERMAN

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TECHNOLOGY DEPARTMENT
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EXAMINER

VU, T

ART UNIT

PAPER NUMBER

2756

DATE MAILED:

09/11/00

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*3 Month Due Date
12/11/2000*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

1/2

Office Action Summary

Application No.
09/002,187

Applicant(s)

Hayes et al

Examiner

Thong Vu

Group Art Unit
2756



☒ Responsive to communication(s) filed on Jul 24, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2756

1. This office action is in response to Amendment A filed Jul 24, 2000. Amended claims 1,6,14,22 and original claims 2-5,7-13,15-21,23-29 are pending. The rejections cited are as state below .

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. § 103 as being unpatentable over Bainbridge et al [Bainbridge 6,014,700] in view of Koperda et al [Koperda 5,790,806]

3. As per claim 1, Bainbridge discloses a method for establishing a virtual circuit from a client to one of a plurality of servers through a network, comprising the steps of (1) receiving a request for connection from a client, wherein said request specifies a functional group, and wherein said functional group having a unique address, and wherein said functional group includes a plurality of servers, each capable of servicing said client, and wherein each of said plurality of servers are assigned a unique address; (2) selecting a server capable of satisfying said request from said functional group; (3) computing a route to said server [col 3 line 30-45; col 6 line 5-20]. However Bainbridge did not detail the unique address as ATM address ; said selection is transparent to said client; and (4) establishing a virtual circuit from said client to said server via said route. Koperda taught a cable network architecture using ATM switch, ATM address [Koperda col 4 line 12-22], transparent service [Koperda col 15 line 15-25]; setup an ATM connection [Koperda col 6 line 42--51]

Art Unit: 2756

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the ATM switches, ATM address and setup ATM connection as taught by Koperda into Bainbridge system in order to utilize the server selection process on the ATM network.

4. As per claim 2, Bainbridge-Koperda disclose selecting an operational server from said functional group which has the highest available computational or CPU power as an inherent feature of server selection [Bainbridge col 3 line 30-45; col 6 line 5-20].

5. As per claims 3-5, Bainbridge-Koperda disclose a telephone switching system, TCP/IP as the inherent features of ATM network [Koperda col 4 line 12-22].

6. As per claim 8, Bainbridge-Koperda taught a peer group leader module configured to cause the network to elect said system as a peer group leader as an inherent feature of work load management policy [Bainbridge col 3 line 30-45; col 6 line 5-20].

7. As per claims 6,14 and 22 contain the similar limitations set forth of method claim 1. Therefore, claims 6,14 and 29 are rejected for the same rationale set forth claim 1.

8. As per claims 7,15,23 contain the similar limitations set forth of method claim 4. Therefore, claims 7,15,23 are rejected for the same rationale set forth claim 4.

9. As per claim 9 contains the similar limitations set forth of method claim 2. Therefore, claim 9 is rejected for the same rationale set forth claim 2.

10. As per claims 11,20,28 contain the similar limitations set forth of method claim 3. Therefore, claims 11,20,28 are rejected for the same rationale set forth claim 3.

Art Unit: 2756

11. As per claims 12,21,29 Brainbridge-Koperda taught each server responds to an ATM address for said function group [Basso col 6 lines 8-32].

12. As per claims 13,16,24 contain the similar limitations set forth of method claim 5.

Therefore, claims 13,16,24 are rejected for the same rationale set forth claim 5.

13. As per claims 17,25 contain the similar limitations set forth of method claim 8.

Therefore, claims 17,25 are rejected for the same rationale set forth claim 8.

14. As per claims 18,26 contain the similar limitations set forth of method claim 2.

Therefore, claims 18,26 are rejected for the same rationale set forth claim 2.

15. As per claims 19,27 contain the similar limitations set forth of method claim 10.

Therefore, claims 19,27 are rejected for the same rationale set forth claim 10.

Art Unit: 2756

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

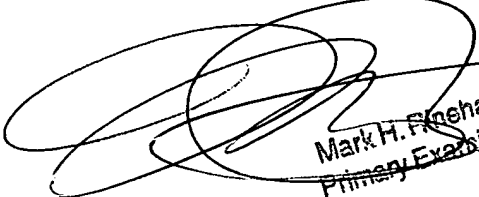
Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703) 305-4643. The examiner can normally be reached on Monday-Thursday from 6:30AM- 4:00PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Mark Rinehart*, can be reached on (703) 305-4815]. The fax number for this Group is (703) 308-5358.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thong Vu

Sep 8, 2000



Mark H. Rinehart
Primary Examiner